



CITY COUNCIL

Public Safety Committee

Monday, July 16, 2007

Agenda

5:00 p.m.

I. Review Sidewalk Vendor Ordinance 5:00p.m.

II. Review Animal Control Ordinance (Sterner) 5:30p.m.

-Expanding upon current regulations

-Possible containment regulations

III. Trash Setout (Waltman) 6:00p.m

-Review process work flow:

1. Who issues citations?
2. When are citations issued?
3. How are citations enforced?
4. Must offenders be present to receive penalties?

BILL NO. _____
AN ORDINANCE

AMENDING THE CITY OF READING CODIFIED BY ADDING A NEW PART 17 TO CHAPTER 10 HEALTH AND SAFETY ADOPTING REGULATIONS GOVERNING THE SIDEWALK VENDORS IN THE CITY OF READING.

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Amending the Codified Ordinances by adding Part 17 Sidewalk Vendors to Chapter 10 Health and Safety as attached in Exhibit A and adding the associated fees to the City of Reading Fee Schedule.

SECTION 2. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

Enacted _____, 2007

President of Council

Attest:

City Clerk

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: _____

Vetoed by Mayor: _____

Date: _____

EXHIBIT A SIDEWALK VENDORS

§10-1700 Purpose. The purpose of this ordinance is to provide for the regulation of sidewalk vendors in the City of Reading to promote an active and attractive pedestrian environment. The City of Reading has the responsibility to provide public safety for pedestrians and to protect public facilities. Whereby, reasonable regulation of sidewalk vendors is necessary to protect the public health, safety, and welfare in the public right of way. It is the finding of City Council that the regulation of sidewalk vendors is necessary to promote the orderly and efficient use of sidewalks, to prevent undue interference with established businesses and to assure the performance of essential utility, traffic control and emergency services.

§10-1701 Title. This ordinance shall be known as the Sidewalk Vendor Ordinance.

§10-1702. Interpretation. The provisions of this Ordinance shall be construed to be the minimum requirements necessary to serve the general welfare and safety of the residents of the City of Reading. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or higher standards than those enumerated in this Ordinance, the provisions of such statute, ordinance or regulation shall govern.

§10-1703. Definitions. For the purpose of this article, certain terms shall be defined as follows:

Kiosk. A freestanding structure upon which temporary information and/or posters, notices and announcements are posted; an open gazebo, pavilion or similar structure used as a newsstand, refreshment booth or the like

Official Map. The topographical survey of the City of Reading, Pennsylvania on file in the Engineering Office.

Passable. Free of any impediment or obstruction, whatsoever, that would hinder the travel of the public.

Public right-of-way. Any place of any nature which is legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the City of Reading. The official topographic survey map of Reading, Pennsylvania, on file in the Engineering Office shall be the final authoritative document should the existence of any street, dedicated or not be disputed.

Public outdoor pay telephone. Any outdoor publicly accessible pay telephone any portion of which, or its enclosure, it situated on, projects over, or hangs over a portion of the public right-of way; or is situated such that it can be used by a person standing on the public right-of way.

Public property. All real and personal property, whether within or outside the corporate City limits, belonging to the City of Reading, excluding that which is used and/or intends for use by vehicular or pedestrian traffic and defined herein as a public right-of-way.

Sandwich board. Any portable sign which is intended, by design, use or construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse.

Sidewalk. That portion of a public right-of-way for which paving is required under this Chapter of the Codified Ordinances of the City of Reading and which is used primarily for pedestrian travel.

Sidewalk area. That portion of the public right-of-way occurring between the curblane and the topographical building line.

Sidewalk vendor. Person or persons who exhibits, displays, or sells any food, beverage, goods, printed materials or merchandise from and stand, cart vending machine or trailer while on or about the sidewalk area.

Sidewalk Vendor License. The written authorization, issued by the City of Reading, to construct, install, erect, or place any obstruction within the public right-of-way. *The license must be displayed prominently on each stand, cart, trailer and/or obstruction.*

Stand. Any structure, device or object erected, installed, or placed within any portion of the public right-of-way or chained, bolted or otherwise attached to a building or structure in such a manner that any portion of said structure, device or object projects over or into the public right-of-way used to exhibit, display or sell food or goods. Stands shall include but are not limited to kiosks, newsracks, newsstands, outdoor pay telephones, sandwich boards, stands, street furniture and vending machines. The terms tables, carts, stands and trailers shall be used interchangeably throughout this ordinance and should be construed to the same meaning.

Trailer. Vehicle designed to be towed by a motor vehicle.

Vending Cart. Small, light vehicle moved by hand for the purpose of conducting food sales.

Vending License Board. Board authorized to approve permits and the location of sidewalk vendors, pursuant to §10-1708.

Vending Machine. Any self-service device that provides for the sale or distribution of food, beverage or goods, newspapers, other printed materials either in bulk or in package, without the necessity of replenishing the device between each vending operation.

Commercial Core Zoning District is defined as the downtown center for government services, offices, shopping, hotels, entertainment and cultural activity. Please see the City of Reading Zoning Map.

§10-1703. License Required. It shall be unlawful for any person to engage in the business of a sidewalk vendor within the City of Reading without first obtaining a license pursuant to this Section. Such sidewalk vending activities are only permitted within the Commercial Code Zoning District.

The restrictions of this section shall not apply to itinerant food operations associated with the organized festival, carnival, fair, parade, picnic or other affair that may be approved or sponsored

by the City or its associated bureaus or agencies, in such areas which may be designated and approved for itinerant food operations on a temporary basis.

(a) Location, Type and Number. A sidewalk vendor license shall only be issued for and restricted to vendor sales from an approved stand at specific and fixed locations within the Commercial Core Zoning District. All sidewalk vending shall be conducted within the public right-of-way, as defined herein. Vending on private property shall follow provisions set forth in the City of Reading Zoning Ordinance for the zoning district in which the vendor is located.

Ten (10) sidewalk vending licenses shall be issued for food-related sales annually per District as determined by the Vending License Board. Ten (10) sidewalk vending licenses for self-serve vending machines. The Vending License Board shall determine the exact location of each vendor or vending machine in each district. The City may increase or decrease the number and locations of the sidewalk vendors at any time with proper notification to the vendors. The City may, if necessary, temporarily relocate any or all vendor(s) by giving the vendor(s) forty-eight (48) hour notice.

(b) More Than Two Licenses Prohibited. A person who holds or has an interest in two sidewalk vendor licenses as an owner, partner or shareholder shall not have any additional interest, either directly or indirectly, as an owner, partner or shareholder in any other sidewalk vendor license.

(c) License Nontransferable. A sidewalk vendor license shall not be transferable to another holder except upon the permanent disability of the holder, and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer.

§10-1704. LICENSE APPLICATION

(a) Notice of License Availability. Applications for sidewalk vending licenses will be available between November 1 and November 15 in the City of Reading Codes Office. Notice of such availability will be made through a newspaper of general circulation not more than 30 days nor less than 14 days prior to November 1.

(b) Application. Any person interested in applying for a sidewalk vendor's license may, after public notice listed above, make application by filing such forms containing the required information with the City of Reading Codes Office with a nonrefundable application fee of Fifty Dollars (\$50.00) no later than 4 p.m. on November 15th. The application shall at a minimum set forth:

1. True name and address of the applicant. P.O. Boxes will not be permitted.
2. Names and addresses of any employees, other than the owner, who operate the stand.
3. Photographs and specifications of the proposed sidewalk vendor cart(s), stand(s) or trailer(s) to be used in sufficient detail showing compliance with the design criteria, standards, and specifications in §10-1705 herein.

4. Sufficient detail about the proposed sidewalk vendor and the products proposed for sale must be submitted with the application for evaluation and compliance with applicable City and State Health Codes.
5. A copy of the applicant's Business Privilege License.
6. A copy of the permit allowing for the use of on-unit heating, cooking, water, or cooling devices.
7. A complete listing of the items to be offered for sale or distribution.

Applications will be initially reviewed by the Codes Office for completeness. Incomplete applications may be amended one time and resubmitted on or before November 15th as stated above.

(c) **Review of Applications.** Not more than forty-five (45) days following application deadline, the Vending License Board shall complete the review of all applications filed and notify the applicants of the results thereof in writing. An application shall be denied and the applicant shall be ineligible for a sidewalk vendor license if:

1. The application is incomplete in any material respect.
2. The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health requirements.
3. The applicant does not have a Business Privilege License.
4. The applicant, or any natural person having an interest in the entity making the application has:
 - A. An interest in more than two sidewalk vendor licenses; or
 - B. Within the past five (5) years held or had an interest in a sidewalk vendor license that had been revoked; or
 - C. Within the past ten (10) years been convicted of selling, offering to sell or possession with intent to sell a controlled substance or convicted of a felony.
5. If an application is denied, the applicant shall be notified in writing of the reason(s) therefore.

(d) Each license shall be issued for one calendar year, February 1 to January 31st, and shall be subject to review during the calendar year for adherence to the requirements of this Ordinance.

§10-1705. DESIGN STANDARDS

(a) **Design and Appearance.**

1. General Requirements: All sidewalk vendor carts, trailers or stands shall be designed to be attractive, easily maintained in a sanitary condition, and mobile. There will be no fixed design as such; however, literature on designs, manufacturers, costs and similar details will be available in the City Codes Office.

In addition, vending must comply with state and local health and sanitation requirements on such matters as refrigeration, cooking, utensils and appliances, materials and food storage. A health permit must be obtained by all vendors selling food before operation of sales begins.

2. Required Physical Features:

- A. The dimensions of the vending shall not exceed 4'x 8'. This is the largest in operation size and states the largest exterior dimensions permitted (including wheels, handles and similar parts). Fold-out shelves for larger merchandise are permitted, provided there will be no interference with pedestrian movement.
- B. Mobility: Vending carts must have at least two wheels. They must permit easy movement and maneuverability in the event of emergency and required relocation.
- C. License Display: The vending license must be clearly displayed on the cart in such a manner and location as to be clearly visible to customers.
- D. Trash Receptacles: Each vending cart will have provisions for vendor and customer trash disposal. Vendors are responsible for proper disposal of this trash whenever the container becomes full or at a minimum at the conclusion of the day's operation.
- E. Covers: Umbrellas or canopies are desirable. The umbrella must not conflict with public passage on the right of way, nor be obtrusive to vendors' signs or neighboring business. The cover must be well maintained.
- F. Utility Connections: utility connections for water, cooking, cooling, heating, etc must be contained in the unit. Utility connections to neighboring properties shall be prohibited.
- G. Fire: A Five Pound ABC type dry chemical fire extinguisher is required for all vending carts utilizing a flame for any purpose.

3. Prohibited Features.

- A. Advertising other than the name of the vendor's business or suppliers. (Advertising must appeal to the sensibilities of the general public.)
- B. Propulsion systems other than manual.
- C. Gas cylinders larger than twenty pounds.
- D. Vending directly from a motor vehicle is prohibited except for those provisions under .05(a).

4. Waivers will not be permitted for any requirement based on health, safety or sanitation considerations.

~~5. All carts shall comply with standards and specifications described herein and adopted by the City. Failure to comply shall be sufficient grounds for rejection of a vending license application or suspension or revocation of any license issued.~~

(b) **Maintenance.** All sidewalk vendor carts shall at all times be maintained in good condition and repair. Any repairs to or replacements of sidewalk vendor carts shall

comply fully with the existing design criteria, standards and specification. No replacement cart may be placed into operation until approved.

(c) **Carts Self Contained.** All sidewalk vendor carts shall be so designed that all sale activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a vendor for product display, storage, or disposal of trash shall be prohibited.

(d) **Sign.** No sign shall be permitted except an identification of the vendor's business name and the listing of items available to sale and the price thereof. The sign must not be obtrusive to the public way or conflict with neighboring businesses.

§10-1706. SIDEWALK VENDOR OPERATION STANDARDS

(a) **Days and Hours of Operation.** Sidewalk vendor sales may be conducted daily between the hours of 9:00 a.m. and 5:00 p.m. from October 1 through March 31 of each year and between the hours of 9:00 a.m. and 7:30 p.m. from April 1 through September 30 of each year, unless otherwise permitted or restricted by regulations adopted by the City.

(b) **Daily Removal.** Sidewalk stands and accouterments shall be removed from the sidewalk daily, not later than ½ hour after the close of business or and not returned thereto earlier than ½ hour before the time permitted for opening, unless otherwise provided by the regulations adopted by the City. Any item not removed from the sidewalk at the close of business may be removed and stored by the City of Reading. The Vendor will be charged for costs, storage and the penalty prescribed under §10-1710 herein.

(c) **Safe and Sanitary Condition.** Sidewalk vendor carts and vending areas shall be maintained in a safe, broom-clean and sanitary condition at all times. Sidewalk vendor carts licensed hereunder to sell food products shall:

1. Be subject to inspection at any time by a City of Reading Codes Inspector and shall at all times be licensed under and be in compliance with all applicable state and local codes.
2. If using portable heating or cooking facilities, subject to inspection at all times by the City of Reading Fire Marshal and Codes Office and shall comply with all applicable codes of the City of Reading. A permit must be obtained from the Fire Marshal before operation of sales begins.

(d) **Quiet Operations.** Sidewalk vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound amplifying devices to attract attention, nor verbally hawk or solicit product sales to pedestrians or motorists.

(e) **Use and Maintenance of Sidewalk.** All sales and related activity shall be conducted from the vending area during which times the vending cart shall not be moved from the assigned vending location. No products shall be stored or displayed, on the sidewalk or any adjacent outside area. The Sidewalk Vendor shall be solely responsible to keep the sidewalk area free of trash, litter, debris or spillage generated by the vendor's business.

The vending cart shall be placed so as not to impede the free movement of pedestrian traffic. The use of tables, chairs, benches, etc. around the vending cart is strictly prohibited.

(f) Public Liability Insurance. Each license holder shall maintain and provide the City of Reading with proof thereof, insurance for public liability, with minimum coverage of \$100,000 per individual and \$500,000 per incident.

(g) Prohibitions. An object, device or structure as regulated under the terms of this Ordinance shall be expressly prohibited when its construction, erection, installation or placement would result in any of the following conditions:

- (1) A passable sidewalk width less than five (5) horizontal feet; *and*
- (2) A horizontal projection from the building line in excess of five (5) feet; *and*
- (3) A reduction in sight triangle;

§10-1707. SUSPENSION OR REVOCATION OF LICENSE

~~A sidewalk vendor license shall be subject to suspension or revocation by the City for violation of any provision of this Ordinance or any regulations promulgated or enacted hereunder, or violation of applicable state or local, including but limited to all health or safety regulations, zoning and taxation.~~

§10-1708. VENDING LICENSE BOARD

The Vending License Board shall consist of the one (1) Member of the Board of Directors of the Reading Downtown Improvement District Authority (DID) or their designee, one (1) member of the City of Reading Planning Commission or their designee, one (1) employee from the Codes Office, Reading Police Traffic Enforcement and Public Works.

Responsibilities. The Vending License Board shall have the following responsibilities and duties:

1. Meet no later than December 30th annually to review and approve vendor license applications.
2. Determine vendor locations for each approved applicant within the Commercial Core Zoning District.
3. Recommend amendments to this Ordinance to the Council of the City of Reading.

§10-1709. ENFORCEMENT

This Ordinance will be enforced under the jurisdiction of the City Codes Office and the Reading Police Department.

§10-1710. CONSTRUCTION AND SEVERABILITY

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect

or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Council of the City of Reading that such remainder shall remain in full force.

§10-1711. PENALTY

Any person violating any provision of this Ordinance or of the regulations promulgated hereunder, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) for each and every offence, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than ninety (90) days or both. Each day during which the person violated any provision of this Ordinance shall constitute a separate offense.

Institution of a prosecution for the imposition of the foregoing penalty shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.

PART 1:

ANIMAL CONTROL

§2-101. Purposes.

The purposes of this Part are to promote the public health, safety and general welfare of the citizens of the City of Reading and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

(Ord. 30-1998, 10/12/1998, §1)

§2-102. Definitions.

When used in this Part, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

ANIMAL - any live creature, both domestic and wild, except humans.

ANIMAL - includes fowl, fish and reptiles.

ANIMAL CONTROL OFFICER - a City employee, an employee of the Humane Society of Berks County or agent of the City, designated by the Mayor to administer and enforce the licensing/permit, inspection and enforcement requirements contained within this Part.

ANIMAL HOSPITAL - any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of animal diseases and injuries.

ANIMAL NUISANCE - any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of an animal.

ANIMAL SHELTER - any facility operated by the City or humane society for the temporary care, confinement and detention of animals and for the humane euthanization and other disposition of animals. The term shall also include any private facility authorized by the Mayor or his designee to impound, confine, detain, care for or destroy any animal.

HEEL - the animal is directly behind or next to a person and obedient to that person's command.

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AT LARGE - an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

ATTACK - the deliberate action of a dog whether or not in response to a command by its owner, to bite, to seize with its teeth or to pursue any human, animate or inanimate object, with obvious intent to destroy, kill, wound, injure or otherwise harm the object of its action.

CRUELTY - any act of omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available.

DOG, DANGEROUS - any dog as defined in 3 P.S. 459-502A(1).

DOG, AGGRESSIVE - as any dog that is a member of any canine breed in whole or in any part that accounts for 40% or more of the dog bite incidents whether on humans or animals reported to the City of Reading Police Department and/or the Humane Society, as determined on annual basis each January based upon statistics for the preceding year provided that the total number of dog bite incidents reported of all breeds exceeds 30.

[Ord. 30-1998-1]

DISPOSITION - adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

DOMESTIC ANIMAL - includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other birds and animals raised and/or maintained in confinement.

EXOTIC ANIMAL - any live monkey, alligator, crocodile, Cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

GUARD or ATTACK DOG - a dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

IMPOUNDMENT - the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

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KENNEL - any premises wherein any person engages in the business of boarding, breeding buying, letting for hire, training for a fee or selling dogs or cats.

MUZZLE - a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

OWNER - any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal covered by this Part. An animal shall be deemed to be harbored if it is fed or sheltered for 3 or more consecutive days.

PUBLIC NUISANCE ANIMAL - any animal that unreasonably annoys humans, endangers the life or health of person or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal that is found running at large.
- (2) Any dog or cat in any section of a park or public recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
- (3) Any animal that damages any property other than that of its owner. [*Ord. 18-1999*]
- (4) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals.
- (7) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (8) Any animal that chases motor vehicles in a public right-of-way.
- (9) Any animal that attacks domestic animals.
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings

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where the animal is kept or harbored.

- (11) Any animal that is offensive or dangerous to the public health, safety or

welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

SANITARY - a condition of good order and cleanliness to minimize the possibility of disease transmission.

UNDER RESTRAINT - an animal is secured by a leash, lead under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

VICIOUS or DANGEROUS ANIMAL - any animal that attacks, bites, or physically injures human beings, domestic animals, or livestock without provocation or which, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings, domestic animals, or livestock. Any wild animal or any animal that without provocation has bitten or attacked a human being or other animal shall be prima facie presumed vicious or dangerous.

WILD ANIMAL - any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

(*Ord. 30-1998, 10/12/1998, §1; as amended by Ord. 30-1998-1, 10/12/1998, §1; and by Ord. 18-1999, 8/9/1999, §1*)

§2-103. Nuisances.

It shall be unlawful for any person to keep any animal on any property located within the incorporated limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

(*Ord. 30-1998, 10/12/1998, §1*)

§2-104. Keeping of Exotic Animals.

It shall be unlawful for anyone to own, harbor or permit at large any exotic animal without the written permission of the Animal Control Board. Such permission shall be given only if it is demonstrated to the satisfaction of the Board that the animal will not constitute a threat to public health or safety.

(*Ord. 30-1998, 10/12/1998, §1*)

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§2-105. Caring for Animals.

A. It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment, or to unnecessarily expose any such animal in hot, stormy, cold or inclement weather.

2. No owner or custodian of any animal shall willfully abandon such animal on any street, road, highway or public place, or on private property when not in the care of another person.

(*Ord. 30-1998, 10/12/1998, §1*)

§2-106. Sanitation.

1. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

A. Collection of the feces by appropriate implement and displacement in a paper or plastic bag or other container.

B. Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.

2. No person owning, harboring or keeping an animal within the City shall permit any

waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

3. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

(Ord. 30-1998, 10/12/1998, §1)

§2-107. Cruelty to Animals.

1. It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals.

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2. No person, except a licensed veterinarian for humanitarian purposes, shall administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this Section are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

(Ord. 30-1998, 10/12/1998, §1)

§2-108. Restraining and Confinement Generally.

1. It shall be unlawful for the owner of any dangerous dog or aggressive dog to fail to keep such dangerous dog or aggressive dog under restraint or to permit such dangerous dog or aggressive dog to run at large upon the streets and public ways of the City.

2. Any dog, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular dog, or shall be at heel and securely muzzled.

3. No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance.

4. Every female dog in heat shall be confined to the residence of the owner or keeper in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

(Ord. 30-1998, 10/12/1998, §1)

§2-109. Restraint of Guard Dogs.

1. Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least 6 feet in height and shall be topped with an anticlimbing device constructed of angle metal braces with at least three strands of equally separated barbed wire stretched between them.

2. All anticlimbing devices shall extend inward at an angle of not less than 45 degrees nor more than 90 degrees when measured from the perpendicular.

3. The areas of confinement shall all have gates and entrances thereto securely closed and locked, and all fences property maintained and escape proof.

4. The provisions of this Section shall not apply to dogs owned or controlled by government law enforcement agencies.

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(Ord. 30-1998, 10/12/1998, §1)

§2-110. Restraining of Dangerous Dogs or Aggressive Dogs.

Every dangerous dog or aggressive dog shall be confined by its owner or authorized agent of its owner to the residence of the owner or keeper. Such residence shall be conspicuously

posted with a placard provided by the issuing office. Whenever off the premises of its owner, shall be securely muzzled and restrained with a chain having a minimal tensile strength of 300 pounds and not more than 3 feet in length or caged. Every person harboring a dangerous dog or aggressive dog is charged with an affirmative duty to confine the animal in such way that children to not have access to such animal.

(*Ord. 30-1998, 10/12/1998, §1; as amended by Ord. 19-1999, 8/9/1999, §1*)

§2-111. Property Owners May Impound.

Any person finding an animal at large upon his property may remove the same to any animal shelter that will take possession of the animal. If no such shelter is available, the property owner may hold the animal in his own possession, and as soon as possible, notify the Animal Control Officer. The property owner shall provide a description of the animal and the name of the owner if known. The Department shall dispatch an animal control officer to take possession of the animal.

(*Ord. 30-1998, 10/12/1998, §1*)

§2-112. Return of Animal to Owner.

If the name of the owner or custodian of an animal found at large is known or can be obtained with reasonable dispatch, the Animal Control Officer shall make attempts to notify the owner.

(*Ord. 30-1998, 10/12/1998, §1*)

§2-113. Disposition of Large Animals.

Any animal control officer or other designated person on call who removes a large animal such as a horse, cow, mule or any other animal not acceptable by any animal hospital or shelter shall be authorized to call a trucking firm or company which shall convey the animal to a farm or other appropriate facility that has an agreement with the City to accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter.

(*Ord. 30-1998, 10/12/1998, §1*)

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§2-114. Dangerous Dog or Aggressive Dog Permits.

1. **Permit Required.** No person shall own, keep, or harbor any dog over the age of 3 months within the City unless such dog has a permit as provided in this Part.

2. **Application.** Application for such permit shall be made available by the owner on a form to be provided by the City and made available at the Berks County Human Society for any dog over 3 months of age; providing, that any owner moving to the City for the purpose of establishing residence or becoming a resident as a result of annexation, and otherwise required to obtain a permit, shall have until 10 days after moving or annexation to obtain such a permit. [*Ord. 20-1999*]

3. **Proof of Rabies Vaccination Required.** All owners applying for a permit must show to the satisfaction of the licensing authority that the animal for which the permit is being obtained has been inoculated against rabies within the last year.

4. **Proof of Sterilization.** Any owner claiming that their dog has been spayed or neutered must show to the satisfaction of the licensing authority that such operation has been performed.

5. **Dangerous Dog or Aggressive Dog Permits.** An annual permit fee of \$50 if spayed or neutered or \$500 if not spayed or neutered shall be paid by the owner of any dangerous dog or aggressive dog, as defined in §2-102. [*Ord. 20-1999*]

6. Permit fees shall not be required for seeing eye dogs, government police dogs or registered therapy dogs. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the Animal Control Board that the dog in question is entitled to such an exemption. [*Ord. 30-1998-2*]

(*Ord. 30-1998, 10/12/1998, §1; as amended by Ord. 30-1998-2, 10/12/1998, §1; and by Ord. 20-1999, 8/9/1999, §§1, 2*)

§2-115. Permit Tags; Identification.

1. Upon payment and acceptance of the permit fee, the licensing authority shall issue a

durable and color-coded permit tag (or collar), stamped with the year of issuance and an identification number for the animal for which the permit has been obtained. Any permit issued for keeping of a dangerous dog or aggressive dog shall take effect on the date of issuance, shall be valid for a period of 1 year beginning on February 1 of the current year and ending on January 31 of the succeeding year, with the cost of same as defined in §2-114 pro-rated by month and valid for the remaining months of the calendar year as defined above. Every dog for which the owner is required to obtain a permit must wear a valid permit tag (or collar) at all times when the animal is off the premises of its owner. All permit fees collected shall be forwarded to and used by the Berks County Humane Society to cover administrative costs. [Ord. 21-1999]

2. No person may use a permit for any animal other than the animal for which the permit

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was issued. It shall also be unlawful for any person to remove from the neck of any dog the permit tag (or collar) issued pursuant to this Section or alter such tag in any manner. (Ord. 30-1998, 10/12/1998, §1; as amended by Ord. 21-1999, 8/9/1999, §1)

§2-116. Impoundment.

1. In addition to any other remedies provided in this Part, an Animal Control Officer or a Police Officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals.

A. Any dog without a valid permit tag.

B. Any animal at large.

C. Any animal constituting a public nuisance or considered a danger to the public.

D. Any animal that is in violation of any quarantine or confinement order of a Health Officer.

E. Any unattended animal that is ill, injured or otherwise in need of care.

F. Any animal that is reasonably believed to have been abused or neglected.

G. Any animal that is reasonably suspected of having rabies.

H. Any animal that is charged with being potentially dangerous, aggressive or displays aggressive behavior where an Animal Control Officer, the Animal Control Board, or the Mayor determines that there is a threat to public health and safety.

I. Any animal that a court of competent jurisdiction has ordered impounded or destroyed.

J. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.

2. An Animal Control Officer or Police Officer may also, or in lieu of impoundment, issue to the owner a notice of violation. Such notice shall impose upon the owner a penalty of \$50 that may, at the discretion of the animal owner, be paid to any agency designated by the licensing authority within 72 hours in full satisfaction of the assessed penalty. In the event that such penalty is not paid within the time period prescribed, a warrant shall be initiated before a magistrate and, upon conviction for violation of this Part, the owner shall be punished as provided in §2-123 of this Part.

(Ord. 30-1998, 10/12/1998, §1)

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§2-117. Notice to Owner and Redemption.

1. Upon impoundment of an animal, the Humane Society shall immediately attempt to notify the owner by telephone or certified mail. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the disposition of the animal.

2. An owner reclaiming an impounded animal shall pay a fee of \$25 for each day the animal has been impounded. The daily rate charged for any subsequent impoundment

occurring within 12 months shall be double that which was charged for each day of confinement during the first impoundment.

3. Any animal not reclaimed by its owner within 48 hours shall become the property of the City and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the Humane Society.

4. Any dangerous dog or aggressive dog impounded shall not be redeemed by the owner or adopted by any other person until all applicable permit fees imposed by this Part shall be paid and proof thereof shall be presented to the Humane Society.

(*Ord. 30-1998, 10/12/1998, §1*)

§2-118. Animal Control Board Established.

1. There is hereby established a City Animal Control Board.

2. The Mayor shall appoint five members plus one alternate subject to confirmation by City Council. The one alternate member shall represent the community at large and shall be empowered to sit on the Board in the absence of a Board member. In the absence of the alternate, the Mayor may designate a temporary alternate at large. One of the five regular appointees shall be designated as chairperson by the Mayor, subject to confirmation by Council.

A. Two members shall be appointed as representatives of the community at large.

B. Two members shall be appointed representatives of animal humane societies and animal shelters.

C. One member shall be appointed as a representative of private veterinarians or veterinary hospitals.

D. One alternate shall be appointed as representative of the community at large.

3. The term of each member shall be 3 years, or until a successor takes office.

(*Ord. 30-1998, 10/12/1998, §1; as amended by Ord. 30-1998-3, 10/12/1998, §1; and by Ord. 30-1998-4, 10/12/1998, §1*)

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§2-119. Animal Control Board; Powers and Duties.

1. The Animal Control Board is authorized to prepare written rules and regulations to govern its operations and the conduct of hearings before it. The rules and regulations shall become effective upon the approval, by resolution, of the City Council. Three copies of the Board's rules and regulations shall be available for inspection by the public in the Office of the City Clerk.

2. The Board shall also have the authority to do the following:

A. Receive petitions alleging violations of this Part, conduct hearings thereon, issue summonses, compel the attendance of witnesses and the production of documents and other evidence, administer oaths, take testimony under oath, receive evidence and conduct investigations when necessary and appropriate to execute the duties enumerated in this Section.

B. Render decisions on petitions to declare that there has been a violation of this Part and/or that an animal nuisance exists, issue orders and take action as needed to correct the violation and eliminate such nuisance, including revocation of a dog permit.

C. Impose administrative fines for violations of this Part in accordance with any schedule of fines that may be established by the Mayor and Council.

D. Receive requests for permission to own exotic animals, conduct an investigation it deems proper and hold hearings in conjunction with such investigation. The Board may grant, in writing, special permission for the keeping of exotic animals and impose any condition on such permission that it deems necessary to protect the animal, owner, and the general public.

4. The Board shall meet at the call of the Chairperson to take the following actions:

A. Prepare and present the Animal Control Board budget to the Director of Finance.

B. Upon written complaint, conduct a public hearing to determine if an animal or holding facility is a public nuisance.

C. Upon written request, hear and decide appeals of permittees whose permits have been revoked by the Animal Control Officer.

D. Recommend to the City Council changes in the law regarding the control of animals.

(Ord. 30-1998, 10/12/1998, §1)

§2-120. Administrative Sanctions and Remedies.

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1. As part of any order issued pursuant to this Part, the Animal Control Board shall have the authority to order the following administrative sanctions and remedies.

A. Obedience training for the animal(s) in question.

B. Muzzling of an animal while off the property of the owner.

C. Confinement of an animal indoors.

D. Confinement of an animal in a secure enclosure.

E. Reduction of the number of animals kept at any one location.

F. Removal of an animal from the custody of the animal's owner or custodian in cases of neglect or cruelty.

G. The sterilization of an animal.

H. A ban on maintaining other animals in the City.

I. Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect the health and safety of the public.

J. Any fees previously paid nonrefundable.

(Ord. 30-1998, 10/12/1998, §1)

§2-121. Appeals.

Any person aggrieved by any decision of an Animal Control Officer or other enforcement officer, except the issuance of a municipal infraction citation, may appeal the same to the Animal Control Board by filing an appeal with the Board within 48 hours days of receiving notice of the decision. Any person aggrieved by any decision or order of the Animal Control Board may appeal the same to the Berks County Court of Common Pleas.

(Ord. 30-1998, 10/12/1998, §1)

§2-122. Enforcement.

Animal Control Officers or other designees of the Mayor shall be the enforcement officials for this Part. These officials, along with Police Officers, shall have the authority to act on behalf of the City and the Animal Control Board in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this Part. It shall be a violation of this Part to interfere with any Animal Control Officer or other enforcement official in the performance of his duties.

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(Ord. 30-1998, 10/12/1998, §1)

§2-123. Violations and Penalties.

1. It shall be violation of the Part to:

A. Fail to comply with any provision of this Part;

B. Fail to comply with any lawful order of the Animal Control Board, an Animal Control Officer, or Police Officer unless such order is lawfully stayed or reversed.

C. Fail to pay any fines, civil penalties or costs imposed by the Animal Control Board or Animal Control Officer within 15 days of the imposition of such fines or costs, unless payment thereof is lawfully stayed.

2. Any person who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

3. Notwithstanding any other penalties imposed by this Section of this Part, any person who violates any provision of this Part and said violation involves a dangerous dog or aggressive dog (as defined in §2-102 herein), shall be subject to a minimum fine of \$500 to a maximum of \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. All fines collected shall be forwarded to the Berks County Humane Society to cover administrative expenses.

(*Ord. 30-1998*, 10/12/1998, §1; as amended by *Ord. 14-2001*, 5/29/2001)